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Filing date: **11/21/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177156
Party	Plaintiff H-D Michigan, Inc.
Correspondence Address	LINDA K. MCLEOD FINNEGAN, HENDERSON, FARABOW GARRETT & DUNNER LLP, 901 NEW YORK AVENUE NW WASHINGTON, DC 20001-4413 UNITED STATES
Submission	Motion to Extend
Filer's Name	Linda K. McLeod
Filer's e-mail	docketing@finnegan.com, linda.mcleod@finnegan.com, judy.valusek@finnegan.com, anna.bonny@finnegan.com
Signature	/Linda K. McLeod/
Date	11/21/2007
Attachments	0007314.PDF (30 pages)(1155881 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>H-D MICHIGAN, INC.,</p> <p style="text-align: center;">Opposer</p> <p style="text-align: center;">v.</p> <p>BRYAN BROEHM,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.: 91177156</p> <p style="text-align: center;"></p> <p>Mark: Serial No.: 78896325 Filed: May 30, 2006</p>
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MOTION FOR EXTENSION OF DISCOVERY PERIOD

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and Section 509.01(a) of the Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), H-D Michigan Inc. ("Opposer") respectfully moves the Board to extend its discovery period, and to reset the remaining trial dates accordingly.

As detailed below, Opposer served timely Notices of Deposition on Applicant, and the parties are working together to find a mutually agreeable deposition date. Further, an extension is warranted to allow Opposer time to follow-up with Applicant concerning any outstanding discovery responses and documents in advance of the depositions.

I. Background

On October 11, 2007, Opposer served Mr. Bryan Broehm ("Applicant") with Opposer's First Set of Interrogatories, First Set of Requests for Admissions, and First Set of Document Requests.

On November 11, 2007, Applicant served written responses to Opposer's discovery requests. To date, however, Applicant has served only a handful of documents responsive to Opposer's First Set of Document Requests.

On November 14, 2007, Opposer served Opposer's Notice to Take Deposition of Bryan Broehm and Notice to Take Deposition Pursuant to 30(b)(6) (collectively, the "Notices of Deposition") on Applicant. Copies of the Notices of Deposition are attached as Exhibit A.

On November 14, 2007, Applicant informed Opposer that he would appear for a deposition, but not on November 26, 2007, the date set forth in the Notices of Deposition. A copy of Applicant's November 14, 2007 e-mail is attached as Exhibit B.

On November 15, 2007, counsel for Opposer offered Applicant several alternative dates in December for his deposition, and asked Applicant to provide dates in December when he would be available. A copy of Opposer's November 15, 2007 e-mail to Applicant offering alternative deposition dates is attached as Exhibit C.

On November 20, 2007, counsel for Opposer and Applicant corresponded regarding an alternative deposition date. A copy of the parties' e-mail correspondence is attached as Exhibit D.

II. Argument

The standard for allowing an extension of a discovery period prior to the expiration of that period is good cause. Fed. R. Civ. P. (6)(b)(1); TBMP Section 509.01(a). Good cause will ordinarily be found so long as the moving party has not

been guilty of negligence or bad faith, and the privilege of extensions is not abused. *Am. Vitamin Prods. Inc. v. DowBrands Inc.*, 22 USPQ2d 1313, 1314 (TTAB 1992). In addition, the motion must “state with particularity the grounds therefor, including detailed facts constituting good cause.” *Luemme Inc. v. D.B. Plus Inc.*, 53 USPQ2d 1758, 1760 (TTAB 1999); *HKG Industries, Inc. v. Perma-Pipe, Inc.*, 49 USPQ2d 1156, 1158 (TTAB 1998).

In this case, Opposer respectfully submits that a thirty-day (30) extension of the discovery period is warranted for the limited purpose of allowing Opposer time to take and complete Applicant’s previously noticed 30(b)(1) and 30(b)(6) depositions, and to allow Opposer time to follow-up with Applicant regarding any outstanding documents and discovery response issues in advance of the deposition. As noted above, Opposer originally noticed Applicant’s depositions to be held in Florida on Monday, November 26, 2007. (Notices of Deposition attached as Exhibit A). Applicant replied, however, that he is not available to attend the depositions on the date noticed. (Applicant’s November 14, 2007 e-mail attached as Exhibit B). Opposer has offered Applicant numerous alternative deposition dates in December, but Applicant notified Opposer today that he is only available for his deposition on December 3, 2007. (Opposer’s November 15, 2007 e-mail to Applicant offering alternative deposition dates attached as Exhibit C and Applicant’s reply e-mail attached as Exhibit D). Counsel for Opposer immediately informed Opposer of Applicant’s proposed alternative deposition date. In view of the Thanksgiving Holiday, and the limited time remaining in the discovery period, Opposer needs additional time to confer with Opposer, determine if a representative of Opposer is

available to attend the depositions on December 3, 2007, and complete follow-up with Applicant regarding any outstanding documents and discovery response issues in advance of the deposition.

Opposer has been diligent during the discovery period and has acted in good faith throughout this proceeding. As detailed above, Opposer has communicated with Applicant regarding alternative deposition dates, and Opposer has made a good faith effort to accommodate a convenient date for Applicant. More important, Opposer has not been guilty of any undue delay or negligence during the prescribed period. Indeed, this motion was filed *prior* to the close discovery, and this is the first motion to extend the discovery period filed by Opposer.

Finally, Opposer's request for an extension of the discovery period will not prejudice Applicant's ability to defend against Opposer's claims. The Board has held that delay in proceedings alone does not constitute prejudice. *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991). In contrast, Opposer would be significantly prejudiced if the Board were to deny Opposer's motion. As noted above, Opposer would be effectively precluded from taking Applicant's deposition if this motion is not granted.

III. Conclusion

For these reasons, Opposer respectfully submits that good cause has been shown for a thirty (30) day extension of the discovery period for the limited purpose of allowing Opposer time to take and complete Applicant's 30(b)(1) and 30(b)(6)

depositions, and time to follow-up with Applicant regarding any outstanding documents and discovery responses in advance of the deposition.

Dated: November 21, 2007

Respectfully submitted,



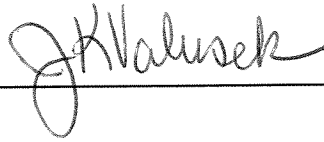
David M. Kelly
Linda K. McLeod
Jonathan M. Gelchinsky

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue N.W.
Washington, DC 20001
(202) 408-4000

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing MOTION FOR
EXTENSION OF DISCOVERY PERIOD was served by first class mail, postage
prepaid, on this 21st day of November 2007, upon Bryan Broehm at the following
address:

Bryan Broehm
331 Gazetta Way
West Palm Beach, FL 33413-1053



U.S. Trademark Opposition No. 91177156
H-D Michigan, Inc. v. Bryan Broehm
Serial No. 78896325

Mark: The logo is a dark, rectangular emblem with a distressed, metallic texture. It features the word "JESUS" in a bold, serif font at the top, "HOLY DIVINSON" in a smaller, sans-serif font in the middle, and "CHRIST" in a bold, serif font at the bottom. The text is white or light-colored, contrasting with the dark background of the emblem.

Exhibit A

Bonny, Anna

From: Bonny, Anna
Sent: Wednesday, November 14, 2007 7:04 PM
To: 'webmaster@stainedillusions.com'
Cc: McLeod, Linda; Kelly, David; Klank, Susannah; Valusek, Judy
Subject: Notices of Deposition
Attachments: 2t09d1p0.pdf; 2t09bqk4.pdf

Dear Mr. Broehm,

Attached please find:


- 1) Opposer's Notice To Take Deposition of Bryan Broehm
- 2) Opposer's Notice To Take Deposition of Applicant Pursuant to Fed. R. Civ. P. 30(b)(6)

Sincerely,

Anna C. Bonny | Law Clerk | Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. | 901 New York Avenue, NW, Washington, DC 20001-4413 | 202.408.4442 | fax 202.408.4400 | anna.bonny@finnegan.com

11/20/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>H-D MICHIGAN, INC.,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>BRYAN BROEHM,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.: 91177156</p> <div style="text-align: center;"></div> <p>Mark: Serial No.: 78896325 Filed: May 30, 2006</p>
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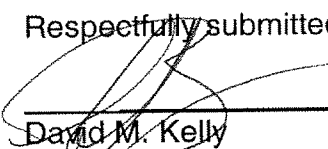
OPPOSER'S NOTICE TO TAKE DEPOSITION OF BRYAN BROEHM

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 30(b)(1) and 37 C.F.R. § 2.120(b), Opposer H-D Michigan, Inc. ("H-D" or "Opposer") will take the deposition upon oral examination of Bryan Broehm before a Notary Public or another person qualified by law to administer oaths.

This deposition shall commence at 9:30 a.m. on November 26, 2007 at the offices of Kluger Peretz Kaplan & Berlin, located at 2385 N.W. Executive Center Dr., Suite 300, Boca Raton, Florida 33431. The deposition(s) will continue from day-to-day until completed. The deposition(s) may be recorded by stenographic, audio, or other means. You are invited to attend and cross-examine.

Respectfully submitted,

Dated: November 14, 2007



David M. Kelly
Linda K. McLeod
Anna C. Bonny
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413
(202) 408-4000

CERTIFICATE OF SERVICE


I certify that a true and accurate copy of the foregoing OPPOSER'S NOTICE TO TAKE DEPOSITION OF BRYAN BROEHM was served by e-mail and FedEx on November 14, 2007 upon Bryan Broehm at the following address:

BRYAN BROEHM
331 GAZETTA WAY
WEST PALM BEACH, FL 33413-1053
webmaster@stainedillusions.com



Anna C. Bonny

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

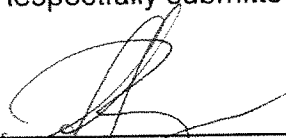
<p>H-D MICHIGAN, INC.,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>BRYAN BROEHM,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.: 91177156</p> <div style="text-align: center;"></div> <p>Mark: Serial No.: 78896325 Filed: May 30, 2006</p>
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**OPPOSER'S NOTICE TO TAKE DEPOSITION OF
APPLICANT PURSUANT TO FED. R. CIV. P. 30(b)(6)**

PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120(b), Opposer H-D Michigan, Inc. ("H-D" or "Opposer") will take the deposition upon oral examination of Bryan Broehm ("Applicant") by and through the officers, directors, managing agents, or other persons designated as being competent to testify on behalf of Applicant with respect to the matters set forth in the attached Schedule A, before a Notary Public or another person qualified by law to administer oaths.

The deposition(s) shall commence at 9:30 a.m. on November 26, 2007 in the offices of Kluger Peretz Kaplan & Berlin, located at 2385 N.W. Executive Center Dr., Suite 300, Boca Raton, Florida 33431. The deposition(s) will continue from day-to-day until completed. The deposition(s) may be recorded by stenographic, audio, or other means. You are invited to attend and cross-examine.

Respectfully submitted,



Dated: November 14, 2007

David M. Kelly
Linda K. McLeod
Anna C. Bonny
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413
(202) 408-4000

DEFINITIONS

A. The following definitions apply to the attached Schedule A below:

(1) “Applicant’s Mark” means the mark shown in Application Serial No. 78896325, and any similar service marks, trademarks, or trade names comprised of or containing HOLY and HOLY-DIVINESON and BAR & SHIELD Logo (i.e., the design portion of Applicant’s Mark) used or intended to be used by Applicant.

(2) “Opposer’s Marks” and “Opposer’s Mark” mean any or all of the names and marks set forth in Paragraphs 3-6 and Exhibit A of the Notice of Opposition, including but not limited to the marks HARLEY, HARLEY-DAVIDSON, and the BAR & SHIELD Logo (i.e., the design marks shown in Paragraph 3 of the Notice of Opposition).

(3) “Opposer’s Products and Services” mean the products and services set forth in Paragraphs 3-6 and Exhibit A of the Notice of Opposition, unless stated otherwise.

(4) “Applicant’s Products and Services” mean the services identified in Application Serial No. 78896325 and all other products and services offered or intended to be offered by Applicant in connection with Applicant’s Mark, unless otherwise stated.

SCHEDULE A

1. All trademarks, service marks, trade names, and domain names comprised of or containing HOLY, HOLY-DIVINESON, HOLY DIVINESON, HOLY and DIVINESON, HARLEY, HARLEY-DAVIDSON, and the BAR & SHIELD Logo shown in Applicant's Mark ever used, registered, or intended to be used or registered by Applicant.
2. All products and services advertised, offered, and/or sold at any time through any website owned or operated by Applicant comprised of or containing HOLY, HOLY-DIVINESON, HOLY DIVINESON, HOLY and DIVINESON, HARLEY, HARLEY-DAVIDSON, and the BAR & SHIELD Logo.
3. All domain name registrations, content, visitors, traffic, e-mail correspondence, and messages referring or relating to any website comprised of or containing HOLY, HOLY-DIVINESON, HOLY DIVINESON, HOLY and DIVINESON, HARLEY, HARLEY-DAVIDSON, and the BAR & SHIELD Logo owned or operated by Applicant.
4. Applicant's selection, adoption, clearance, ownership, use, and registration of Applicant's Mark.
5. The date of first use anywhere and date of first use in commerce of Applicant's Mark.
6. The date and circumstances when Applicant first became aware of Opposer, Opposer's Marks, including but not limited to the BAR & SHIELD Logo, and all of the marks set forth in Paragraph 3 and Paragraph 6 (Exhibit A) of the Notice of Opposition (collectively "Opposer's Marks").
7. All products and services with which Applicant uses, has used, and intends to use Applicant's Mark ("Applicant's Products and Services").
8. Applicant's past, current, and intended use, advertising, and promotion of Applicant's Mark and Applicant's Products and Services, including the nature and extent of all media used in advertising and promoting Applicant's Mark and Applicant's Products and Services.
9. The manner in which the Applicant's Products and Services are sold and offered for sale.
10. The identity, nature, and characteristics of the past, current, and prospective customers of Applicant's Products and Services.

11. The channels of trade through which Applicant has marketed and intends to market each of Applicant's Products and Services in connection with Applicant's Mark.
12. All revenues, profits, and/or losses derived from the sale of Applicant's Products and Services in connection with Applicant's Mark.
13. All expenses incurred in the advertising, promotion, and sale of Applicant's Products and Services in connection with Applicant's Mark.
14. Market research and business plans relating to or involving Applicant's Mark and Applicant's Products and Services.
15. All research, reports, studies, investigations, surveys, searches, and opinions concerning any name, mark, or designation comprised of or containing the BAR & SHIELD Logo.
16. All instances of confusion, mistake, or deception between Applicant and Opposer, between Applicant's Products and Services and Opposer's Products and Services (as set forth in Paragraph 3 and Paragraph 6 (Exhibit A) of the Notice of Opposition and collectively hereinafter "Opposer's Products and Services"), and/or between Applicant's Mark and Opposer's Marks.
17. All inquiries/comments Applicant has received regarding Harley, Harley-Davidson, H-D Michigan, Inc., and/or any of its related companies, any of Opposer's Marks, and/or any of Opposer's Products or Services.
18. The manner in which Applicant receives and processes consumer inquiries, comments, and/or complaints.
19. Applicant's knowledge of all third-party uses of, and applications and registrations for, any name, mark, or designation comprised of or containing the BAR & SHIELD Logo or any variation thereof, and any actions Applicant has taken or objections Applicant has made with respect to any such third-party uses, applications, and/or registrations.
20. Any U.S. judicial, administrative, domain name, or other proceedings in any forum involving Applicant's Mark.
21. All objections Applicant has received or made to any person regarding the use and/or registration of any name, mark, or designation comprised of or containing the BAR & SHIELD Logo.
22. All interactions, communications, discussions, negotiations and/or agreements with any person involving the use and/or registration of any

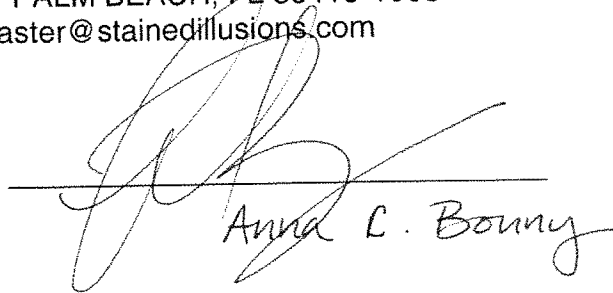
name, mark, or designation comprised of or containing the BAR & SHIELD Logo.

23. All non-privileged internal interactions, communications, and/or discussions regarding or involving Applicant's use of Applicant's Mark and/or any name, mark, or designation comprised of or containing the BAR & SHIELD Logo.
24. Applicant's trademark application for the containing the BAR & SHIELD Logo, including but not limited to its preparation, filing, prosecution, and maintenance.
25. Applicant's document retention policy.
26. Applicant's responses to Opposer's interrogatories, document requests, and requests for admissions in this case, and all documents produced by Applicant in this case.
27. Applicant's past and present membership in and/or affiliation with H.O.G. (Harley Owners Group®) and any H.O.G. local chapters, the dates and circumstances when Applicant became a member of H.O.G. and any H.O.G. local chapters, the identification of all such H.O.G. and H.O.G. local chapters, and Applicant's activities in connection with such all such H.O.G. and H.O.G. local chapters.
28. Applicant's past and present ownership, purchase, rental, and use of any Harley-Davidson® motorcycle, and the dates and circumstances surrounding the same.

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing H-D MICHIGAN, INC.'S
NOTICE TO TAKE DEPOSITION OF APPLICANT PURSUANT TO Fed. R. Civ. P.
30(b)(6) was served by e-mail and FedEx on November 14, 2007 upon Bryan Broehm
at the following address:

BRYAN BROEHM
331 GAZETTA WAY
WEST PALM BEACH, FL 33413-1053
webmaster@stainedillusions.com



Anna C. Bonny

U.S. Trademark Opposition No. 91177156
H-D Michigan, Inc. v. Bryan Broehm
Serial No. 78896325


Mark: The logo is a black shield-shaped emblem. At the top, the word "JESUS" is written in a white, serif font. Below it, the words "HOLY DIVINE SON" are written in a smaller, white, sans-serif font. At the bottom, the word "CHRIST" is written in a white, serif font. The entire text is enclosed within a black border.

Exhibit B

Bonny, Anna

From: Bryan Broehm [webmaster@stainedillusions.com]
Sent: Wednesday, November 14, 2007 8:30 PM
To: 'Bryan Broehm'; Bonny, Anna
Cc: McLeod, Linda; Kelly, David; Klank, Susannah; Valusek, Judy
Subject: RE: Notices of Deposition

To Whom It May Concern:

It probably would have been more reasonable to have contacted me to schedule a date for your request to depose me. I have no problem with appearing for a deposition; however, that date is not suitable and I will not be able to attend. Please contact me to attempt to schedule an agreeable date for all parties. Thank you.

Sincerely,

Bryan C. Broehm

From: Bonny, Anna [mailto:Anna.Bonny@finnegan.com]
Sent: Wednesday, November 14, 2007 7:04 PM
To: webmaster@stainedillusions.com
Cc: McLeod, Linda; Kelly, David; Klank, Susannah; Valusek, Judy
Subject: Notices of Deposition

Dear Mr. Broehm,

Attached please find:

- 1) Opposer's Notice To Take Deposition of Bryan Broehm
- 2) Opposer's Notice To Take Deposition of Applicant Pursuant to Fed. R. Civ. P. 30(b)(6)

Sincerely,

Anna C. Bonny | Law Clerk | Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. | 901 New York Avenue, NW, Washington, DC 20001-4413 | 202.408.4442 | fax 202.408.4400 | anna.bonny@finnegan.com

This e-mail message is intended only for individual(s) to whom it is addressed and may contain information that is privileged, confidential, proprietary, or otherwise exempt from disclosure under applicable law. If you believe you have received this message in error, please advise the sender by return e-mail and delete it from your mailbox. Thank you.

11/20/2007

U.S. Trademark Opposition No. 91177156
H-D Michigan, Inc. v. Bryan Broehm
Serial No. 78896325



Exhibit C

Bonny, Anna

From: McLeod, Linda
Sent: Thursday, November 15, 2007 6:37 PM
To: 'Bryan Broehm'
Cc: Kelly, David; Klank, Susannah; Valusek, Judy; Bonny, Anna
Subject: RE: Notices of Deposition

Hi Bryan,

Thank you for the message below. We are flexible on finding a mutually agreeable date for the deposition(s). We are available most of December (except Dec. 6-7 and 13-15 and December 22-30th). Please let us know a few options on dates in December so we can find a good date for everyone. In the meantime, we need to extend the discovery period complete the noticed deposition(s). Please confirm that we can file a motion to extend with your consent to accommodate the deposition(s).

Regards, Linda

Linda K. McLeod | Attorney | **Finnegan, Henderson, Farabow, Garrett & Dunner LLP** | 901 New York Ave., N.W. | Washington, D.C. 20001-4413 | tel: 202.408.6036 | fax: 202.408.4400 | email: linda.mcleod@finnegan.com | web: www.finnegan.com

From: Bryan Broehm [<mailto:webmaster@stainedillusions.com>]
Sent: Wednesday, November 14, 2007 8:30 PM
To: 'Bryan Broehm'; Bonny, Anna
Cc: McLeod, Linda; Kelly, David; Klank, Susannah; Valusek, Judy
Subject: RE: Notices of Deposition

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Bryan C. Broehm

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Sincerely,

Anna C. Bonny | Law Clerk | Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. | 901 New York Avenue, NW,
Washington, DC 20001-4413 | 202.408.4442 | fax 202.408.4400 | anna.bonny@finnegan.com

This e-mail message is intended only for individual(s) to whom it is addressed and may contain information that is privileged, confidential, proprietary, or otherwise exempt from disclosure under applicable law. If you believe you have received this message in error, please advise the sender by return e-mail and delete it from your mailbox. Thank you.

U.S. Trademark Opposition No. 91177156
H-D Michigan, Inc. v. Bryan Broehm
Serial No. 78896325

Mark: 

Exhibit D

Bonny, Anna

From: McLeod, Linda
Sent: Wednesday, November 21, 2007 11:25 AM
To: Nicoletti, Dana; Bonny, Anna; Webster, Elizabeth
Subject: FW: Notices of Deposition

FYI file

-----Original Message-----

From: McLeod, Linda
Sent: Wednesday, November 21, 2007 4:52 AM
To: 'webmaster@stainedillusions.com'
Subject: Re: Notices of Deposition

Bryan,

We will check with our client on this date. We must file an extension because it falls outside of the discovery period.

- Linda

----- Original Message -----

From: Bryan Broehm <webmaster@stainedillusions.com>
To: McLeod, Linda
Sent: Tue Nov 20 22:38:54 2007
Subject: RE: Notices of Deposition

Linda,

Hello. I am available December 3rd, all day. That would really be the most convenient if that is possible, considering the restrictions on the other dates. Unfortunately, my schedule and yours aren't meshing very well. I hope that perhaps the 3rd will be soon enough to prevent having to necessitate an extension since it would only be four days later than the originally proposed date. Please let me know so that I can adjust my schedule accordingly. Thank you.

Sincerely,

Bryan C. Broehm

From: McLeod, Linda [mailto:Linda.McLeod@finnegan.com]
Sent: Thursday, November 15, 2007 6:37 PM
To: Bryan Broehm
Cc: Kelly, David; Klank, Susannah; Valusek, Judy; Bonny, Anna
Subject: RE: Notices of Deposition

Hi Bryan,

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consent to accommodate the deposition(s).

Regards, Linda

Linda K. McLeod | Attorney | Finnegan, Henderson, Farabow, Garrett & Dunner LLP | 901 New York Ave., N.W. | Washington, D.C. 20001-4413 | tel: 202.408.6036 | fax: 202.408.4400 | email: linda.mcleod@finnegan.com | web: www.finnegan.com <<http://www.finnegan.com/>>

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Sent: Wednesday, November 14, 2007 8:30 PM
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To: webmaster@stainedillusions.com
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- 2) Opposer's Notice To Take Deposition of Applicant Pursuant to Fed. R. Civ. P. 30(b) (6)

Sincerely,

Anna C. Bonny | Law Clerk | Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. |
901 New York Avenue, NW, Washington, DC 20001-4413 | 202.408.4442 | fax 202.408.4400
| anna.bonny@finnegan.com

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Bonny, Anna

From: McLeod, Linda
Sent: Wednesday, November 21, 2007 11:24 AM
To: Bonny, Anna
Subject: FW: Notices of Deposition

From: Bryan Broehm [mailto:webmaster@stainedillusions.com]
Sent: Tuesday, November 20, 2007 10:39 PM
To: McLeod, Linda
Subject: RE: Notices of Deposition

Linda,

Hello. I am available December 3rd, all day. That would really be the most convenient if that is possible, considering the restrictions on the other dates. Unfortunately, my schedule and yours aren't meshing very well. I hope that perhaps the 3rd will be soon enough to prevent having to necessitate an extension since it would only be four days later than the originally proposed date. Please let me know so that I can adjust my schedule accordingly. Thank you.

Sincerely,
Bryan C. Broehm

From: McLeod, Linda [mailto:Linda.McLeod@finnegan.com]
Sent: Thursday, November 15, 2007 6:37 PM
To: Bryan Broehm
Cc: Kelly, David; Klank, Susannah; Valusek, Judy; Bonny, Anna
Subject: RE: Notices of Deposition

Hi Bryan,

Thank you for the message below. We are flexible on finding a mutually agreeable date for the deposition(s). We are available most of December (except Dec. 6-7 and 13-15 and December 22-30th). Please let us know a few options on dates in December so we can find a good date for everyone. In the meantime, we need to extend the discovery period complete the noticed deposition(s). Please confirm that we can file a motion to extend with your consent to accommodate the deposition(s).

Regards, Linda

Linda K. McLeod | Attorney | Finnegan, Henderson, Farabow, Garrett & Dunner LLP | 901 New York Ave., N.W. | Washington, D.C. 20001-4413 | tel: 202.408.6036 | fax: 202.408.4400 | email: linda.mcleod@finnegan.com | web: www.finnegan.com

From: Bryan Broehm [mailto:webmaster@stainedillusions.com]
Sent: Wednesday, November 14, 2007 8:30 PM
To: 'Bryan Broehm'; Bonny, Anna
Cc: McLeod, Linda; Kelly, David; Klank, Susannah; Valusek, Judy
Subject: RE: Notices of Deposition

To Whom It May Concern:

It probably would have been more reasonable to have contacted me to schedule a date for your request to depose me. I have no problem with appearing for a deposition; however, that date is not suitable and I will not be able to attend. Please contact me to attempt to schedule an agreeable date for all parties. Thank you.

Sincerely,

Bryan C. Broehm

From: Bonny, Anna [mailto:Anna.Bonny@finnegan.com]
Sent: Wednesday, November 14, 2007 7:04 PM
To: webmaster@stainedillusions.com
Cc: McLeod, Linda; Kelly, David; Klank, Susannah; Valusek, Judy
Subject: Notices of Deposition

Dear Mr. Broehm,

Attached please find:

- 1) Opposer's Notice To Take Deposition of Bryan Broehm
- 2) Opposer's Notice To Take Deposition of Applicant Pursuant to Fed. R. Civ. P. 30(b)(6)

Sincerely,

Anna C. Bonny | Law Clerk | Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. | 901 New York Avenue, NW,
Washington, DC 20001-4413 | 202.408.4442 | fax 202.408.4400 | anna.bonny@finnegan.com

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Bonny, Anna

From: McLeod, Linda
Sent: Wednesday, November 21, 2007 11:27 AM
To: Bonny, Anna
Subject: FW: Notices of Deposition

Another exhibit

From: McLeod, Linda
Sent: Tuesday, November 20, 2007 11:59 AM
To: 'Bryan Broehm'; Bonny, Anna
Cc: Kelly, David; Klank, Susannah; Valusek, Judy
Subject: RE: Notices of Deposition

Bryan,

Please let us know about alternative dates for your deposition. HD will have to file a motion to extend and may have to seek other relief from the Board in order to accommodate an alternative date.

Regards, Linda

Linda K. McLeod | Attorney | Finnegan, Henderson, Farabow, Garrett & Dunner LLP | 901 New York Ave., N.W. | Washington, D.C. 20001-4413 | tel: 202.408.6036 | fax: 202.408.4400 | email: linda.mcleod@finnegan.com | web: www.finnegan.com

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Cc: McLeod, Linda; Kelly, David; Klank, Susannah; Valusek, Judy
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Subject: Notices of Deposition

11/21/2007

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Sincerely,

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11/21/2007